

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

RICHARD GINGERICH,

Plaintiff,

CIVIL ACTION NO. 07-CV-14600

vs.

DISTRICT JUDGE THOMAS L. LUDINGTON

TERRY ARNOLD,

MAGISTRATE JUDGE MONA K. MAJZOUN

Defendant.

**ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION FOR
SHOW CAUSE ORDER (DOCKET NO. 28)**

This matter comes before the Court on Plaintiff's Motion for Show Cause Order filed on October 21, 2009. (Docket no. 28). The Defendant has not responded. The Court dispenses with oral argument pursuant to E.D. Mich. LR 7.1(e). All pretrial matters have been referred to the undersigned for decision. (Docket no. 3). This matter is now ready for ruling pursuant to 28 U.S.C. § 636(b)(1)(A).

Plaintiff, a Michigan state prisoner, filed this civil rights action pursuant to 42 U.S.C. § 1983 on October 29, 2007. Because Plaintiff is proceeding *pro se*, the Court attempted unsuccessfully to serve the Defendant with process. Defendant, a former Department of Correction employee, was finally served on March 20, 2009. (Docket no. 24). However, no appearance of counsel has been filed on behalf of Defendant and Defendant has not filed an Answer or other response to the Complaint.

On August 11, 2009 this Court entered an Order for Defendant to Advise of Counsel Status. (Docket no. 26). The Order directed the Defendant to advise the Court in writing on or before

August 24, 2009 whether he has retained counsel (such as the Office of the Michigan Attorney General or other attorney) to represent him in this matter. The Defendant failed to file a response to the Order.

On October 21, 2009 Plaintiff filed the instant Motion for Show Cause Order. In his Motion, Plaintiff moves the Court for an order directing the Defendant or his attorney to show cause why they should not be held in contempt for failure to comply with this Court's August 11, 2009 order. Plaintiff also asks for an order directing the Defendant to comply with the August 11, 2009 order within seven days or be held in contempt. (Docket no. 28).

The Court will grant in part and deny in part Plaintiff's Motion for Order to Show Cause. The Court will order the Defendant to contact the Michigan Attorney General or other attorney and file an Answer to Plaintiff's Complaint on or before December 18, 2009. **FAILURE TO COMPLY WITH THIS ORDER MAY RESULT IN SANCTIONS UP TO AND INCLUDING A JUDGMENT OF DEFAULT BEING ENTERED AGAINST THE DEFENDANT.**

IT IS THEREFORE ORDERED that Defendant Arnold contact the Michigan Attorney General or other attorney and file an Answer to Plaintiff's Complaint on or before December 18, 2009 or risk sanctions up to and including default.

NOTICE TO THE PARTIES

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. § 636(b)(1).

Dated: November 18, 2009

s/ Mona K. Majzoub
MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Order was served upon Richard Gingerich (by regular mail) and Terry Arnold on this date. (Mr. Arnold was served by regular mail, certified mail and by person service of the United States Marshal Service).

Dated: November 18, 2009

s/ Lisa C. Bartlett
Case Manager